

MINUTES

**Critical Area Commission for the
Chesapeake and Atlantic Coastal Bays
1804 West Street, Suite 100
Annapolis, Maryland**

June 12, 2024

CALL TO ORDER: Chair Erik Fisher called the meeting to order at 1:00 p.m. The meeting was held virtually on MSTeams.

Commission Members in Attendance:

David Bradford – Worcester County Chesapeake
Steve Bunker, Charles County
Dan Burris – St. Mary’s County
Jenelle Gerthoffer, Worcester County – Coastal/Town of Ocean City
Anita Grant, At Large
Debbie Herr-Cornwell, Department of Planning
Mike Hewitt, St. Mary’s County
Shawn Kiernan, MDOT
Catherine McCall, Department of Natural Resources
Travis Marion, Cecil County
Mira Morgan, Department of Housing and Community Development
Jim Palma, Department of Commerce
Hitesh Patel, Somerset County
Larry Porter, Caroline County
Annie Richards, Kent County
Tammy Roberson, Department of Environment
Lisa Rodvien, Anne Arundel County
Dave Wilson, Worcester County Coastal

Commission Members Not in Attendance:

Tim Adams, Prince George’s County
Mark Conway, Baltimore City
Earl Hance, Calvert County
Rosa Hance, At Large
Michael McCarthy, Talbot County
Alisha Mulkey, Department of Agriculture
Brian Roche, Dorchester County
Pat Young, Baltimore County

OPENING REMARKS: Chair Fisher welcomed everyone to the virtual meeting and explained the procedures. Ms. Kate Charbonneau confirmed a quorum with a roll call. Chair Fisher welcomed the new Commissioners – Commissioner Dan Burris, for St. Mary’s County; Commissioner David Bradford, for Worcester County (Chesapeake); and Commissioner Dave Wilson, also for Worcester County (Coastal).

APPROVAL OF MINUTES: Commissioner Marion moved to approve the minutes from the May 1 meeting. Commissioner Grant seconded. Commissioner Rodvien abstained from voting, as she was not present at the meeting. Motion passed unanimously.

STAFF PRESENTATIONS

CONSENT CALENDAR:

The first item on the Program agenda, Modified Buffer Areas for Marinas/Restaurants Text Amendment (Baltimore County) are eligible for Consent. A Summary Report has been requested for the second item, Critical Area Program Comprehensive Review (Kent County). A full presentation has been requested for the third item, the Wharf at Handy's Point Growth Allocation (Kent County).

PROGRAM SUBCOMMITTEE:

**Refinement – Modified Buffer Areas for Marinas/Restaurants Text Amendment (Somerset County)
Consent Item**

Subcommittee Recommendation: Concur with Refinement and Approve

This item was eligible for consent. Hearing no questions, Chair Fisher asked for a motion to approve the refinement. Commissioner Bunker so moved. Commissioner Rodvien seconded. All voted in favor. Chair Fisher acknowledged the motion, and said this would stand as his final decision.

**Refinement – Critical Area Program Comprehensive Review (Kent County)
Summary Report**

Subcommittee Recommendation: Concur with Refinement and Approve with Conditions

A summary presentation was requested for this item and Ms. Katie Hayden provided a summary of the refinement. Kent County has completed a comprehensive review of its entire Critical Area Program as required by State law. The last comprehensive review was completed in 2002. Ms. Hayden reviewed the types of changes that were made to the Critical Area provisions and the recommended condition to make additional changes to the code, consistent with the Critical Area law and regulations.

Hearing no questions, Chair Fisher asked for a motion to approve. Commissioner Bunker so moved. Commissioner Herr-Cornwell seconded. All in favor. Chair Fisher acknowledged the motion and said this would stand as his final decision.

**Refinement – The Wharf at Handy's Point Growth Allocation (Kent County)
Full Report**

Subcommittee Recommendation: Concur with Refinement and Approve with Conditions.

Ms. Annie Sekerak presented her staff report, which is incorporated into these minutes. Kent County is requesting 25.68 acres of growth allocation for The Wharf at Handy's Point to change the Critical Area designation on Parcel 102 from RCA to IDA. The proposed growth allocation will accommodate the property owner's desire to move existing dry boat storage further away from Worton Creek and outside of the 100-foot Buffer and to install a new septic system with Best Available Technology that serves the entire marina. The Kent County Commissioners voted unanimously to approve the proposed growth allocation on March 12, 2024.

Commission staff accepted the growth allocation for processing on March 27, 2024. On April 26, 2024, Chair Fisher determined that this growth allocation could be processed as a refinement.

At the Program Subcommittee meeting on Friday, June 7, there was extensive discussion about mitigation plans. Subsequent to that, the applicant has started identifying alternative locations for the plantings that will better address the subcommittee's concerns.

Per Condition 1 in the staff report, a Building Restriction Line (BRL) is to be established to restrict all development within the 300 foot setback other than the proposed septic reserve area and access path. Ms. Sekerak showed a slide that depicts the proposed BRL.

Discussion: Commissioner Wilson asked for clarification on whether the BRL is temporary and whether it would restrict future development of the woods on that site. Ms. Carla Gerber responded that the BRL would remain in place until such time as the applicant comes forward to have that revised, and then the County would work with the applicant to make sure that proper mitigation is provided.

Hearing no further questions, Chair Fisher recognized Program Subcommittee Chair Bunker, who recommended, on behalf of the Program Subcommittee, concurrence with the Chair's determination of refinement, and further, the Program Subcommittee recommends approval of the request with the conditions as outlined in the staff report to ensure that the growth allocation is consistent with the purposes, policies and goals of the Critical Area law and regulations. Commissioner Burris seconded the motion.

Chair Fisher invited discussion amongst Commissioners. Commissioner Wilson referred to the staff report where it mentioned that the Department of Planning said this request was not in line with the County's comprehensive plan. He asked whether there isn't any way to move the parking away from the contiguous woods, to lessen the impact on the waterway. Mr. Buck Nickerson responded on behalf of the Wharf that the parking spots will result in removal of 0.372 acres of tree coverage. He designed the spots in a way to minimize the breaking of the tree canopy. He emphasized that they will be mitigating this at a 3:1 rate. Ms. Gerber stated that FCA does not apply in this case. Ms. Charbonneau explained that CA forest mitigation is separate from FCA mitigation and FCA does not apply within the CA.

With no further discussion, Chair Fisher requested a vote from the Commission. All voted in favor. Motion passed unanimously. He recognized the motion, and said this would stand as his final decision.

Salisbury Critical Area Boundary Map – Request for Approval Extension (Wicomico County)

Presented by Ms. Kate Charbonneau

The City of Salisbury had the draft summary Critical Area maps transferred to them for local approval in February of 2022. The timeline for approval is two years. At the February 2024 Commission meeting they requested, and were granted, a 90 day extension for completion of the approval process. In the interim there was some staff changeover and an incorrect map was submitted to the City Council. They are requesting an additional 90 day extension to get the correct map to the City Council for review and approval.

Hearing no questions, Chair Fisher asked for a motion. Commissioner Grant moved to approve the extension. Commissioner Patel seconded the motion. Motion passed unanimously.

Maryland Transportation Authority – Francis Scott Key Bridge Rebuild Update

Presented by Kate Durant, with Brian Wolfe, Michelle Harden and Julie McCarthy presenting on behalf of the MDTA.

Brian Wolfe, Director of Project Development for the MDTA and contract manager for the Key Bridge rebuild began the presentation. The proposal is to rebuild the bridge in essentially the same location as the original structure, using today's standards for design and construction. He provided an overview of the next steps, work to be done, and projected timeline. Plan is to begin construction in summer 2025, and the goal is to reopen the bridge in October 2028.

Michelle Harden provided a summary of the results of the natural resources inventory that was carried out onsite. The area northeast of the bridge is entirely within the Critical Area. That area is characterized as fair to poor condition, dominated by invasive tree species, phragmites, and invasive vines.

Julie McCarthy spoke to the mitigation component of the rebuild plans. Environmental justice is a fairly new aspect of plans, but one that will be taken into consideration when determining mitigation, with Critical Area staff input.

Kate Durant then provided an overview of the MOU that is being developed between the MDTA and the Critical Area Commission for this project.

Discussion: Commissioner Bunker said that he had heard that they might be considering a tunnel for this project, and asked if that was true. Brian Wolfe replied that a tunnel is not being considered at this time. Commissioner Wilson asked if there is any plan for dealing with the invasives. Michelle Harden said there was not a mitigation plan yet, but that's certainly something that would be considered.

OLD BUSINESS:

May 15 Retreat

Chair Fisher thanked everyone who attended the May 15 retreat and said he understood that not everyone was able to attend due to scheduling conflicts. He hoped people enjoyed it and got as much out of it as he did. He shared that we heard presentations on urban wetland restoration in Baltimore City; and proposals from the Town of St. Michaels about how they're dealing with sea level rise and other impacts of climate change. And, we set aside time for general 'housekeeping' and discussion of ways to make the Commission more efficient. He invited Ms. Charbonneau to present an abbreviated version of the brainstorming session.

Ms. Charbonneau covered the highlights:

- The 60% meeting attendance requirement only refers to the full Commission meetings, not the subcommittee meetings. Having said that, she emphasized that she really appreciates people making the effort, as it can be a bit of a challenge to reach a quorum for all meetings.
- We have officially switched to Google Meets for our virtual meeting platform, moving away from Teams. Used Dropbox this month in addition to posting the meeting documents on Teams. The Dropbox transfer is only active for a week, though, so will have to work on that. Documents also available on the CAC website.
- Document sharing will be a good way to get feedback on documents, such as updated bylaws, workgroup docs, etc.

- 2025 meeting schedule – we will be working on it soon so people will have the dates well in advance. Hoping to have a retreat again next year, in a different. Also looking to have an in-person meeting at another location, once a year.

NEW BUSINESS: Chair Fisher wished a fond farewell to Commissioner McCarthy, who served as Commissioner for Talbot County for almost a decade. We'll be welcoming a new Commissioner at the next meeting.

Meeting adjourned 1:57 p.m.



Lynette Fullerton, Commission Secretary

8/7/24

Date of Approval